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9 July 1956

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Congressional Demands for Information from the Executive Branch

1. This memorandum is for information only.

2. The Attorney General has recently had compiled a lengthy study entitled, "Is a Congressional Committee Entitled to Demand and Receive Information and Papers from the President and Heads of Departments which They Deem Confidential, in the Public Interest?" The study cites many precedents furnished by past Presidents, a number of court decisions, opinions of the Attorneys General and text writers, and discusses the constitutional and statutory provisions. It comes to the conclusion that the President and heads of departments are not bound to produce papers or disclose information communicated to them where in their own judgment disclosure would on public consideration be inexpedient.

3. The argument is predicated on the constitutional doctrine of the separation of powers and the Chief Executive's exclusive control over subordinates in the Executive Branch. There is a reference to President Cleveland's message to the Senate of March 1, 1886, which I believe is particularly apt. President Cleveland stated that although public officials of the United States might owe their offices to laws enacted by the two Houses of Congress, that fact did not encumber the offices with a lien in favor of either branch of Congress. While the Congress created the Executive departments for the benefit of the people to answer the general purposes of Government under the Constitution and the laws, the departments were nevertheless not embarrassed by any obligation to the Senate as the price of their creation.

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4. While the study apparently was intended to be definitive, we believe there are several court cases which definitely bear on the problem which we will draw to the attention of the Department of Justice.

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LAWRENCE R. HOUSTON
General Counsel

Att - Attorney General's Study